

1 PUBLIC PROTECTION CABINET

2 KENTUCKY HORSE RACING COMMISSION

3 (Amendment)

4 811 KAR 1:095. Disciplinary measures and penalties.

5 RELATES TO: KRS 230.215, 230.260, 230.265, 230.290, 230.300, 230.320

6 STATUTORY AUTHORITY: KRS 230.215, 230.240, 230.260, 230.320

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the
8 commission to promulgate administrative regulations prescribing the conditions under which
9 horse racing shall be conducted in Kentucky. KRS 230.240(2) requires the commission to
10 promulgate administrative regulations restricting or prohibiting the use and administration of
11 drugs or stimulants or other improper acts to horses prior to the horse participating in a race.
12 This administrative regulation establishes the disciplinary powers and duties of the judges and
13 the commission.

14 Section 1. Definitions. (1) "Associated person" means the spouse of an inactive person, or
15 a companion, family member, employer, employee, agent, partnership, partner, corporation or
16 other entity whose relationship, whether financial or otherwise, with an inactive person would
17 give the appearance that the other person or entity would care for or train a horse, or perform
18 veterinarian services on a horse for the benefit, credit, reputation, or satisfaction of the inactive
19 person.

(2) "Class A drug" means a drug, medication, or substance classified as a Class A drug, medication, or substance in the schedule.

(3) "Class B drug" means a drug, medication, or substance classified as a Class B drug, medication, or substance in the schedule.

(4) "Class C drug" means a drug, medication, or substance classified as a Class C drug, medication, or substance in the schedule.

(5) "Class D drug" means a drug, medication, or substance classified as a Class D drug, medication, or substance in the schedule.

(6) "Companion" means a person who cohabits with or shares living accommodations with an inactive person.

(7) "Inactive person" means a trainer or veterinarian who has his or her license denied or suspended or revoked for thirty (30) or more days pursuant to 811 KAR Chapter 1 or KRS Chapter 230.

(8) "NSAID" means a non-steroidal anti-inflammatory drug.

(9) "Primary threshold" means the thresholds for phenylbutazone, flunixin, and ketoprofen provided in 811 KAR 1:090, Section 8(2)(c), (3)(c), and (4)(c), respectively.

(10) "Schedule" means the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 811 KAR 1:093.

(11) "Secondary threshold" means the thresholds for phenylbutazone and flunixin provided in 811 KAR 1:090, Section 8(6)(b) and (c).

(12) "Withdrawal guidelines" means the Kentucky Horse Racing Commission Withdrawal Guidelines Standardbreds as provided in 811 KAR 1:093.

1 Section 2. General Provisions. (1) An alleged violation of 811 KAR 1:090 shall be
2 adjudicated in accordance with this administrative regulation, and with 811 KAR 1:100, 811 KAR
3 1:105, and KRS Chapter 13B.

4 (2) If a drug, medication, or substance is found to be present in a pre-race or post-race
5 sample or possessed or used by a licensee at a location under the jurisdiction of the
6 commission that is not classified in the schedule, the commission may establish a classification
7 after consultation with either or both of the Association of Racing Commissioners International
8 and the Racing and Medication Consortium or their respective successors.

9 (3) The judges and the commission shall consider any mitigating or aggravating
10 circumstances properly presented when assessing penalties pursuant to this administrative
11 regulation. Evidence of full compliance with the withdrawal guidelines shall be considered by
12 the judges and the commission as a mitigating factor to be used in determining violations and
13 penalties.

14 ~~[(4) Pursuant to KRS 230.320, the commission may suspend or revoke the commission-~~
15 ~~issued license of an owner, trainer, veterinarian, or other licensee.]~~

16 (4)~~[(5)]~~ A licensee whose license has been suspended or revoked in any racing jurisdiction
17 or a horse that has been deemed ineligible to race in any racing jurisdiction shall be denied
18 access to locations under the jurisdiction of the commission during the term of the suspension
19 or revocation.

20 (5)~~[(6)]~~ A suspension or revocation shall be calculated in calendar days, unless otherwise
21 specified by the judges or the commission in a ruling or order.

1 ~~(6)~~~~(7)~~ Written or printed notice of the assessment of a penalty, including a written
2 warning, shall be made to the person penalized. The notice shall be posted immediately at the
3 office of the association and sent to the commission, the United States Trotting Association,
4 and the Association of Racing Commissioners International, or their successors, to be posted on
5 their respective official Web sites. If an appeal is pending, that fact shall be so noted.

6 ~~(7)~~~~(8)~~ A horse administered a substance in violation of 811 KAR 1:090 may be required to
7 pass a commission-approved examination as determined by the judges pursuant to 811 KAR
8 1:020, Section 5, or be placed on the veterinarian's list pursuant to 811 KAR 1:090, Section 18.

9 ~~(8)~~~~(9)~~ A person who claims a horse may void the claim if the post-race test indicates a
10 Class A, B, or C drug violation, or a TCO2 level exceeding 37.0 millimoles per liter and receive
11 reimbursement for reasonable costs associated with the claim as provided in 811 KAR 1:035,
12 Section 3(14)(a)(3).

13 ~~(9)~~~~(10)~~ To protect the racing public and ensure the integrity of racing in Kentucky, a
14 trainer whose penalty for a prior Class A violation or for a prior Class B third offense violation
15 under this administrative regulation has not been finally adjudicated may, if stall space is
16 available, be required to house a horse that the trainer has entered in a race in a designated
17 stall for the twenty-four (24) hour period prior to post time of the race in which the horse is
18 entered. If the judges require the trainer's horse to be kept in a designated stall, there shall be
19 twenty-four (24) hour surveillance of the horse by the association and the cost shall be borne
20 by the trainer.

21 (10) In addition to the penalties contained in Section 5 of this administrative regulation for
22 the trainer and owner, any other person who administers, is a party to, facilitates, or is found to

1 be responsible for any violation of 811 KAR 1:090 shall be subject to the relevant penalty as
2 provided for the trainer or other penalty as may be appropriate based upon the violation.

3 (11) A veterinarian who administers, is a party to, facilitates, or is found responsible for
4 any violation of KRS Chapter 230 or 811 KAR Chapter 1~~[has engaged in prohibited practices in~~
5 ~~violation of 811 KAR 1:090]~~ shall be reported to the Kentucky Board of Veterinary Examiners
6 and the state licensing board of veterinary medicine by the judges.

7 (12) An administrative action or the imposition of penalties pursuant to this
8 administrative regulation shall not constitute a bar or be considered jeopardy to prosecution of
9 an act that violates the criminal statutes of Kentucky.

10 (13) If a person is charged with committing multiple or successive overages involving a
11 Class C or Class D drug, medication, or substance, the judges or the commission may charge the
12 person with only one (1) offense if the person demonstrates that he or she was not aware that
13 overages were being administered because the positive test results showing the overages were
14 unavailable to the person charged. In this case, the person alleging that he or she was not
15 aware of the overages shall bear the burden of proving that fact to the judges or the
16 commission.

17 (14) If a penalty for a medication violation requires a horse to be placed on the judges' list
18 for a period of time, the judges may waive this requirement if ownership of the horse was
19 legitimately transferred prior to the trainer's notification by the commission of the positive
20 result.

21 (15)~~[(14)]~~ Any person who has been fined under this administrative regulation shall be
22 suspended until the fine has been paid in full.

1 ~~(16)~~~~((15))~~ A fine shall not be paid directly or indirectly by a person other than the person
2 upon whom it is imposed and any payment made shall not serve to abate or satisfy any penalty
3 imposed.

4 ~~(17)~~~~((16))~~ Written or printed notice of the assessment of a penalty shall be made to the
5 person penalized, notice shall be posted immediately at the office of the association, and notice
6 shall be forwarded immediately to the office of the commission, the United States Trotting
7 Association, and the Association of Racing Commissioners International by the presiding judge
8 or clerk of the course.

9 ~~(18)~~~~((17))~~ If the penalty is for a driving violation and does not exceed in time a period of
10 five (5) days, the driver may complete the engagement of all horses declared in before the
11 penalty becomes effective. The driver may drive in stake, futurity, early closing and feature
12 races, during a suspension of five (5) days or less, but the suspension shall be extended one (1)
13 day for each date the driver drives in a race.

14 ~~(19)~~~~((18))~~ A horse shall not have the right to compete while owned or controlled wholly or
15 in part by a person whose license has been suspended or revoked. An entry made by or for a
16 licensee whose license has been suspended or revoked or for a horse which has been
17 suspended shall be held liable for the entrance fee without the right to compete unless the
18 penalty is removed.

19 ~~(20)~~~~((19))~~ An association shall not willfully allow a person whose license has been
20 suspended or revoked to drive in a race, or a suspended or disqualified horse to start in a race
21 or a performance against time.

1 ~~(21)~~~~((20))~~ An association shall not willfully allow the use of its track or grounds by a
2 licensee whose license has been suspended or revoked, or a horse that has been suspended.

3 ~~(22)~~~~((21))~~ If a person is excluded from a pari-mutuel association by the association, the
4 commission shall be notified.

5 ~~(23)~~~~((22))~~ A person subject to current suspension, revocation, or expulsion shall not act as
6 an officer of an association. An association shall not, after receiving notice of the penalty,
7 employ or retain in its employ an expelled, suspended, disqualified, or excluded person at or on
8 the track during the progress of a race meeting.

9 ~~(24)~~~~((23))~~ A licensee that has been suspended shall serve any suspension imposed:

10 (a) During the current race meet, if there are enough remaining days to serve out the
11 suspension;

12 (b) During the next regularly scheduled race meet at the operating race track where the
13 infraction took place if there are not enough remaining days to serve out the suspension; or

14 (c) During a race meet at another operating track in this state where the licensee seeks to
15 engage in the activity for which he or she is licensed if the track where the infraction took place
16 closes before another race meet is held at that track.

17 ~~(25)~~~~((24))~~ A penalty imposed by the United States Trotting Association or the racing
18 commission, or other governing body, of any racing jurisdiction shall be recognized and
19 enforced by the commission unless application is made for a hearing before the commission,
20 during which the applicant shall show cause as to why the penalty should not be enforced
21 against him in Kentucky.

1 Section 3. Prior Offenses. A prior offense occurring in Kentucky or any other racing
2 jurisdiction shall be considered by the judges and by the commission in assessing penalties. The
3 judges shall attach to a penalty judgment a copy of the offender's prior record listing violations
4 that were committed both inside and outside of Kentucky.

5 Section 4. Penalties for Violations Not Related To Drugs or Medications. (1) A licensee who
6 commits a violation classified as a Category 1 violation shall be subject to the following
7 penalties as deemed appropriate by the commission in keeping with the seriousness of the
8 violation and the facts of the case:

9 (a) A suspension or revocation of licensing privileges from zero days to thirty (30) days;
10 and

11 (b) Payment of a fine not to exceed \$5,000.

12 (2) A licensee who commits a violation classified as a Category 2 violation shall be subject
13 to the following penalties as deemed appropriate by the commission in keeping with the
14 seriousness of the violation and the facts of the case:

15 (a) A suspension or revocation of licensing privileges from thirty (30) days to sixty (60)
16 days; and

17 (b) Payment of a fine not to exceed \$10,000.

18 (3) A licensee who commits a violation classified as a Category 3 violation shall be subject
19 to the following penalties as deemed appropriate by the commission in keeping with the
20 seriousness of the violation and the facts of the case:

21 (a) A suspension or revocation of licensing privileges from sixty (60) days to permanent
22 suspension or revocation; and

(b) Payment of a fine up to \$50,000.

(4) A violation of 811 KAR Chapter 1 not otherwise specifically addressed shall be a Category 1 violation and shall be subject to the penalties set forth in subsection (1) of this section.

Section 5. Penalties for Violations Relating to Class A, B, C, or D Drugs.

(1) Class A drug.

(a) TRAINER

<u>First offense</u>	<u>Second lifetime offense in any racing jurisdiction</u>	<u>Third lifetime offense in any racing jurisdiction</u>
<u>One (1) to three (3) year suspension;</u> <u>AND</u> <u>\$10,000 to \$25,000 fine.</u>	<u>Three (3) to five (5) year suspension;</u> <u>AND</u> <u>\$25,000 to \$50,000 fine.</u>	<u>Five (5) year suspension to a lifetime ban;</u> <u>AND</u> <u>\$50,000 to \$100,000 fine.</u>

(b) OWNER

<u>First offense</u>	<u>Second lifetime offense in any racing jurisdiction in a horse owned by the same owner</u>	<u>Third lifetime offense in any racing jurisdiction in a horse owned by the same owner</u>
<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Horse shall be placed on the judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Horse shall be placed on the judges' list for one hundred twenty (120) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Ninety (90) day suspension;</u> <u>AND</u> <u>\$50,000 fine;</u> <u>AND</u> <u>Horse shall be placed on the</u>

		<u>judges' list for one hundred eighty (180) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>
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1 (2) Class B drug.

2 (a) TRAINER

<u>First offense</u>	<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Third offense within a 365-day period in any racing jurisdiction</u>
<u>Thirty (30) to sixty (60) day suspension;</u> <u>AND</u> <u>\$500 to \$1,000 fine.</u>	<u>Sixty (60) to one hundred eighty (180) day suspension;</u> <u>AND</u> <u>\$1,000 to \$2,500 fine.</u>	<u>One hundred eighty (180) to three hundred sixty five (365) day suspension;</u> <u>AND</u> <u>\$2,500 to \$5,000 fine.</u>

3 (b) OWNER

<u>First offense</u>	<u>Second offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner</u>	<u>Third offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner</u>
<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Horse shall be placed on the judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>

(3)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to a Class C drug violation and an overage of permitted NSAIDs as follows:

1. Phenylbutazone in a concentration greater than 5.0 mcg/ml;
2. Flunixin in a concentration greater than 100 ng/ml; and
3. Ketoprofen in a concentration greater than 50 ng/ml.

(b) TRAINER

<u>First offense</u>	<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Third offense within a 365-day period in any racing jurisdiction</u>
<u>Zero (0) to ten (10) day suspension;</u> <u>AND</u> <u>\$500 to \$1500 fine.</u>	<u>Ten (10) to thirty (30) day suspension;</u> <u>AND</u> <u>\$1500 to \$2500 fine.</u>	<u>Thirty (30) to sixty (60) day suspension;</u> <u>AND</u> <u>\$2500 to \$5000 fine.</u>

(c) OWNER

<u>First offense</u>	<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Third offense within a 365-day period in any racing jurisdiction</u>
<u>Disqualification and loss of purse;</u> <u>AND</u> <u>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>If same horse as first offense, horse shall be placed on the judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>\$5,000 fine;</u> <u>AND</u> <u>If same horse as first and second offenses, horse shall be placed on the judges' list for sixty (60) days and may be</u>

		<u>required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>
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1 (4)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to
2 the following:

3 1. Overage of permitted NSAIDs as follows:

4 a. Phenylbutazone in a concentration of 2-5 mcg/ml;

5 b. Flunixin in a concentration of 21-99 ng/ml; and

6 c. Ketoprofen in a concentration of 11-49 ng/ml.

7 (b) TRAINER

<u>First offense</u>	<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Third offense within a 365-day period in any racing jurisdiction</u>
<u>Written warning to a \$500 fine.</u>	<u>Written warning to a \$750 fine.</u>	<u>\$500 to \$1,000 fine.</u>

8 (c) OWNER

<u>First offense</u>	<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Third offense within a 365-day period in any racing jurisdiction</u>
<u>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>If same horse as first and second offenses, disqualification and loss of purse;</u> <u>AND</u>

		<u>Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>
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1 (5) Multiple NSAIDs. Overage of two (2) permitted NSAIDs phenylbutazone, flunixin, and
2 ketoprofen.

3 (a) TRAINER

	<u>Concentrations of both permitted NSAIDs above the primary threshold.</u>	<u>Concentrations of one permitted NSAID above the primary threshold and one above the secondary threshold.</u>	<u>Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.</u>
<u>First offense</u>	<u>Zero to sixty (60) day suspension;</u> <u>AND</u> <u>\$500 to \$1,000 fine.</u>	<u>Zero to fifteen (15) day suspension;</u> <u>AND</u> <u>\$250 to \$750 fine.</u>	<u>Zero to five (5) day suspension;</u> <u>AND</u> <u>\$250 to \$500 fine.</u>
<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Sixty (60) to one hundred eighty (180) day Suspension;</u> <u>AND</u> <u>\$1,000 to \$2,500 fine.</u>	<u>Fifteen (15) to thirty (30) day suspension;</u> <u>AND</u> <u>\$750 to \$1,500 fine.</u>	<u>Five (5) to ten (10) day suspension;</u> <u>AND</u> <u>\$500 to \$1,000 fine.</u>
<u>Third offense within a 365-day period in any racing jurisdiction</u>	<u>One hundred eighty (180) three hundred sixty five day suspension;</u> <u>AND</u> <u>\$2,500 to \$5,000 fine.</u>	<u>Thirty (30) to sixty (60) day suspension;</u> <u>AND</u> <u>\$1,500 to \$3,000 fine.</u>	<u>Ten (10) to fifteen (15) day suspension;</u> <u>AND</u> <u>\$1,000 to \$2,500 fine.</u>

1 (b) OWNER

	<u>Concentrations of both permitted NSAIDs above the primary threshold.</u>	<u>Concentrations of one permitted NSAID above the primary threshold and one above the secondary threshold.</u>	<u>Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.</u>
<u>First offense</u>	<u>Disqualification and loss of purse.</u>	<u>Disqualification and loss of purse.</u>	
<u>Second offense within a 365-day period in any racing jurisdiction</u>	<u>Disqualification and loss of purse.</u>	<u>Disqualification and loss of purse.</u>	
<u>Third offense within a 365-day period in any racing jurisdiction</u>	<u>Disqualification and loss of purse.</u>	<u>Disqualification and loss of purse.</u>	

2 (6) Class D drug.

3 (a) The penalties established in paragraph (b) of this subsection shall apply to a Class D
4 drug violation.

5 (b) TRAINER

<u>1-4 offenses within a 365-day period in any racing jurisdiction</u>	<u>5 or more offenses within a 365-day period in any racing jurisdiction</u>
<u>Zero to five (5) day suspension;</u> <u>AND</u> <u>\$250 to \$500 fine.</u>	<u>Five (5) to ten (10) day suspension;</u> <u>AND</u> <u>\$500 to \$1000 fine.</u>

Section 6. TCO2 penalties. In any instance of a positive pre-race TCO2 result, the horse shall be scratched. In addition, penalties for violations of 811 KAR 1:090, Section 20(6), (7), or (8) shall be as follows:

(a) TRAINER

<u>First offense involving a pre-race test result</u>	<u>First offense involving a post-race test result</u>	<u>Second offense within a 365-day period in any racing jurisdiction involving a pre-race or a post-race test result</u>	<u>Third offense within a 365-day period in any racing jurisdiction involving a pre-race or a post-race test result</u>	<u>Subsequent offenses within a 365-day period in any racing jurisdiction involving a pre-race or a post-race test result</u>
<u>Zero to five (5) day suspension;</u> <u>AND</u> <u>\$250 to \$500 fine.</u>	<u>Zero to ninety (90) day suspension;</u> <u>AND</u> <u>\$1,000 to \$1,500 fine.</u>	<u>Ninety (90) to one hundred eighty (180) day suspension;</u> <u>AND</u> <u>\$1,500 to \$3,000 fine.</u>	<u>One hundred eighty (180) to three hundred sixty five day suspension;</u> <u>AND</u> <u>\$3,000 to \$5,000 fine.</u>	<u>One (1) year suspension to lifetime ban.</u>

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(b) OWNER

<u>First offense involving a pre-race test result</u>	<u>First offense involving a post-race test result</u>	<u>Second offense within a 365-day period in any racing jurisdiction involving a pre-race or a post-race test result</u>	<u>Third offense within a 365-day period in any racing jurisdiction involving a pre-race or a post-race test result</u>	<u>Subsequent offenses within a 365-day period in any racing jurisdiction involving a pre-race or a post-race test result</u>
		<u>Disqualification and loss of purse;</u> <u>AND</u> <u>If same horse as first offense, horse shall be ineligible from fifteen (15) to sixty (60) days.</u>	<u>Disqualification and loss of purse.</u> <u>AND</u> <u>If same horse as first and second offenses, horse shall be ineligible from sixty (60) to one hundred eighty (180) days.</u>	<u>Disqualification and loss of purse.</u> <u>AND</u> <u>If same horse as first, second, and third offenses, horse shall be ineligible from one hundred eighty (180) to three hundred sixty five (365) days.</u>

2 Section 7. Shock Wave Machine and Blood Gas Machine Penalties. Penalties for
3 violations of 811 KAR 1:090, Section 20(5), (9), or (10) shall be as follows:

1 (a) TRAINER

<u>First offense</u>	<u>Second lifetime offense in any racing jurisdiction</u>	<u>Third lifetime offense in any racing jurisdiction</u>
<u>Thirty (30) to sixty (60) day suspension;</u> <u>AND</u> <u>\$1,000 to \$5,000 fine.</u>	<u>Sixty (60) to one hundred eighty (180) day suspension;</u> <u>AND</u> <u>\$5,000 to \$10,000 fine.</u>	<u>One hundred eighty (180) to three hundred sixty five day suspension;</u> <u>AND</u> <u>\$10,000 to \$20,000 fine.</u>

2 (b) OWNER

<u>First offense</u>	<u>Second lifetime offense in any racing jurisdiction</u>	<u>Third lifetime offense in any racing jurisdiction</u>
<u>Disqualification and loss of purse.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>If same horse as first offense, horse shall be placed on the steward's list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>	<u>Disqualification and loss of purse;</u> <u>AND</u> <u>If same horse as first and second offenses, horse shall be placed on the judges' list from sixty (60) to one hundred eighty (180) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the judges.</u>

3 Section 8. Out-of-Competition Testing. The penalties established in 811 KAR 1:240,
4 Section 8, shall apply to violations involving the prohibited substances and practices described
5 in Section 2 of that administrative regulation.

6 ~~[(1) Class A drug. A horse that tests positive for a Class A drug shall be disqualified and~~
7 ~~listed as unplaced and all purse money shall be forfeited. In addition, a licensee who~~

1 ~~administers, or is a party to or responsible for administering a Class A drug to a horse, shall be~~
2 ~~subject to the following penalties as deemed appropriate by the commission in keeping with~~
3 ~~the seriousness of the violation and the facts of the case:~~

4 ~~(a) For a first offense:~~

5 ~~1. A minimum one (1) year suspension, absent mitigating circumstances. The presence of~~
6 ~~aggravating factors may be used to impose a maximum of a three (3) year suspension or~~
7 ~~revocation. Section 9 of this administrative regulation shall apply to any person whose licensing~~
8 ~~privileges have been suspended or revoked; and~~

9 ~~2. Payment of a fine of \$5,000 to \$10,000.~~

10 ~~(b) For a second offense:~~

11 ~~1. A minimum three (3) year suspension or revocation, absent mitigating circumstances.~~
12 ~~The presence of aggravating factors may be used to impose a maximum of a five (5) year~~
13 ~~suspension or revocation. Section 9 of this administrative regulation shall apply to any person~~
14 ~~whose licensing privileges have been suspended or revoked; and~~

15 ~~2. Payment of a fine of \$10,000 to \$20,000.~~

16 ~~(c) For a third lifetime offense in any racing jurisdiction:~~

17 ~~1. A minimum five (5) year suspension or revocation, absent mitigating circumstances. The~~
18 ~~presence of aggravating factors may be used to impose a maximum of a lifetime revocation.~~
19 ~~Section 9 of this administrative regulation shall apply to any person whose licensing privileges~~
20 ~~have been suspended or revoked; and~~

21 ~~2. Payment of a fine of \$20,000 to \$50,000.~~

~~(d) Horse ineligible. A horse that tests positive for a Class A drug shall be ineligible to race in Kentucky as follows:~~

~~1. For a first offense, the horse shall be ineligible from zero days to sixty (60) days;~~

~~2. For a second offense in a horse owned by the same owner, the horse shall be ineligible from sixty (60) days to 180 days; and~~

~~3. For a third offense in a horse owned by the same owner, the horse shall be ineligible from 180 days to 240 days.~~

~~(2) Class B drug. A horse that tests positive for a Class B drug shall be disqualified and listed as unplaced and all purse money shall be forfeited. In addition a licensee who administers, or is a party to or is responsible for administering a Class B drug to a horse shall be subject to the following penalties as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case:~~

~~(a) For a first offense:~~

~~1. A minimum fifteen (15) day suspension, absent mitigating circumstances. The presence of aggravating factors may be used to impose a maximum of a sixty (60) day suspension. Section 9 of this administrative regulation shall apply to any person whose licensing privileges have been suspended or revoked; and~~

~~2. Payment of a fine of \$500 to \$1,000.~~

~~(b) For a second offense within a 365 day period in any racing jurisdiction:~~

~~1. A minimum sixty (60) day suspension, absent mitigating circumstances. The presence of aggravating factors may be used to impose a maximum of a 180 day suspension. Section 9 of~~

~~this administrative regulation shall apply to any person whose licensing privileges have been suspended or revoked; and~~

~~2. Payment of a fine of \$1,000 to \$2,500.~~

~~(c) For a third offense within a 365 day period in any racing jurisdiction:~~

~~1. A minimum 180 day suspension, absent mitigating circumstances. The presence of aggravating factors may be used to impose a maximum of a one (1) year suspension. Section 9 of this administrative regulation shall apply to the person whose licensing privileges have been suspended or revoked; and~~

~~2. Payment of a fine of \$2,500 to \$5,000.~~

~~(d) Horse ineligible. A horse that tests positive for a Class B drug shall be ineligible to race in Kentucky as follows:~~

~~1. For a first offense, the horse shall be ineligible from zero days to sixty (60) days;~~

~~2. For a second offense in a horse owned by the same owner, the horse shall be ineligible from sixty (60) days to 180 days; and~~

~~3. For a third offense in a horse owned by the same owner, the horse shall be ineligible from 180 days to 240 days.~~

~~(3) Class C drug or overage of either permitted NSAID flunixin or ketoprofen.~~

~~(a) The following licensees shall be subject to the penalties in paragraphs (b) through (d) of this subsection as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case:~~

~~1. A licensee who administers, or is a party to or responsible for administering a Class C drug to a horse, in violation of 810 KAR 1:090; and~~

1 ~~2. A licensee who is responsible for an overage of either permitted NSAID flunixin or~~
2 ~~ketoprofen in the following concentrations in violation of 811 KAR 1:090:~~

3 ~~a. Flunixin, greater than 100 ng/ml; or~~

4 ~~b. Ketoprofen, greater than 50 ng/ml.~~

5 ~~(b) For a first offense:~~

6 ~~1. A suspension or revocation of licensing privileges from zero (0) days to ten (10) days;~~

7 ~~2. Payment of a fine of \$250 to \$500; and~~

8 ~~3. Forfeiture of purse money won.~~

9 ~~(c) For a second offense within a 365-day period:~~

10 ~~1. A suspension or revocation of licensing privileges from ten (10) days to thirty (30) days;~~

11 ~~2. Payment of a fine of \$500 to \$1,000; and~~

12 ~~3. Forfeiture of purse money won.~~

13 ~~(d) For a third offense within a 365-day period:~~

14 ~~1. A suspension or revocation of licensing privileges from thirty (30) days to sixty (60)~~
15 ~~days;~~

16 ~~2. Payment of a fine of \$1,000 to \$2,500; and~~

17 ~~3. Forfeiture of purse money won.~~

18 ~~(e) Notwithstanding paragraphs (a) through (d) of this subsection, a licensee who~~
19 ~~administers, or is a party to or responsible for an overage of either permitted NSAID flunixin or~~
20 ~~ketoprofen in the following concentrations shall be subject to the following penalties as~~
21 ~~deemed appropriate by the commission in keeping with the seriousness of the violation and the~~
22 ~~facts of the case:~~

1 ~~1. Flunixin (21-99 ng/ml); or~~

2 ~~2. Ketoprofen (11-49 ng/ml).~~

3 ~~a. For a first offense:~~

4 ~~(i) A suspension or revocation of licensing privileges from zero (0) days to five (5) days;~~

5 ~~and~~

6 ~~(ii) Payment of a fine of \$250 to \$500.~~

7 ~~b. For a second offense within a 365-day period:~~

8 ~~(i) A suspension or revocation of licensing privileges from five (5) days to ten (10) days;~~

9 ~~and~~

10 ~~(ii) Payment of a fine of \$500 to \$1,000.~~

11 ~~c. For a third offense within a 365-day period:~~

12 ~~(i) A suspension or revocation of licensing privileges from ten (10) days to fifteen (15)~~
13 ~~days.~~

14 ~~(ii) Payment of a fine of \$1,000 to \$2,500; and~~

15 ~~(iii) Forfeiture of purse money won.~~

16 ~~(4) Overage of Permitted NSAID Phenylbutazone.~~

17 ~~(a) A licensee who administers, or is a party to or responsible for an overage of the~~
18 ~~permitted NSAID phenylbutazone in a concentration of greater than 2.0 mcg/ml and less than~~
19 ~~5.1 mcg/ml shall be subject the following penalties as deemed appropriate by the commission~~
20 ~~in keeping with the seriousness of the violation and the facts of the case:~~

21 ~~1. For a first offense:~~

22 ~~a. Minimum penalty of a written warning up to a maximum penalty of a \$500 fine; and~~

~~b. The horse may not be eligible to enter until it has been approved for racing by the
commission veterinarian.~~

~~2. For a second offense within a 365 day period:~~

~~a. Minimum penalty of a written warning up to a maximum penalty of a \$750 fine; and~~

~~b. The horse shall not be eligible to enter until it has been approved for racing by the
commission veterinarian.~~

~~3. For a third offense within a 365 day period:~~

~~a. A fine of \$500 to \$1,000;~~

~~b. Forfeiture of purse money won;~~

~~c. The horse shall be disqualified and listed as unplaced; and~~

~~d. The horse shall not be eligible to enter until it has been approved for racing by the
commission veterinarian.~~

~~(b) A licensee who administers, or is a party to or responsible for an overage of the
permitted NSAID Phenylbutazone in a concentration of greater than 5.0 mcg/ml shall be subject
to the following penalties as deemed appropriate by the commission in keeping with the
seriousness of the violation and the facts of the case:~~

~~1. For a first offense, payment of a fine from \$1,000 to \$1,500; and~~

~~2. For a second offense within a 365 day period:~~

~~a. Payment of a fine from \$1,500 to \$2,500;~~

~~b. A suspension of licensing privileges for fifteen (15) days, unless the stewards or the
commission finds mitigating circumstances;~~

~~c. Forfeiture of purse money won; and~~

~~d. The horse shall be disqualified and listed as unplaced.~~

~~3. For a third offense within a 365-day period:~~

~~a. A fine of \$2,500 to \$5,000;~~

~~b. A suspension of licensing privileges for thirty (30) days, unless the stewards or the
commission finds mitigating circumstances;~~

~~c. Forfeiture of purse money won; and~~

~~d. The horse shall be disqualified and listed as unplaced.~~

~~(5) Multiple NSAIDs. A licensee who is responsible for an overage of two (2) of the
permitted NSAIDs flunixin, ketoprofen, or phenylbutazone shall be subject to the following
penalties as deemed appropriate by the commission in keeping with the seriousness of the
violation and the facts of the case:~~

~~(a) For violations where the concentrations of both of the two (2) permitted NSAIDs is
above the primary thresholds:~~

~~1. For a first offense:~~

~~a. A suspension or revocation of licensing privileges from zero days to sixty (60) days.~~

~~Section 9 of this administrative regulation shall apply to a person whose licensing privileges
have been suspended or revoked;~~

~~b. Payment of a fine of \$500 to \$1,000; and~~

~~c. Forfeiture of purse money won.~~

~~2. For a second offense within a 365-day period:~~

~~a. A suspension or revocation of licensing privileges from sixty (60) days to 180 days.~~
~~Section 9 of this administrative regulation shall apply to a person whose licensing privileges~~
~~have been suspended or revoked;~~

~~b. Payment of a fine of \$1,000 to \$2,500; and~~

~~c. Forfeiture of purse money won.~~

~~3. For a third offense within a 365 day period:~~

~~a. A suspension or revocation of licensing privileges from 180 days to one (1) year. Section~~
~~9 of this administrative regulation shall apply to a person whose licensing privileges have been~~
~~suspended or revoked;~~

~~b. Payment of a fine of \$2,500 to \$5,000; and~~

~~c. Forfeiture of purse money won.~~

~~(b) For violations where the concentration of one (1) of the two (2) permitted NSAIDs is~~
~~above the primary threshold and one (1) of the two (2) permitted NSAIDs is above the~~
~~secondary threshold:~~

~~1. For a first offense:~~

~~a. A suspension or revocation of licensing privileges from zero days to fifteen (15) days.~~
~~Section 9 of this administrative regulation shall apply to a person whose licensing privileges~~
~~have been suspended or revoked;~~

~~b. Payment of a fine of \$250 to \$750; and~~

~~c. Forfeiture of purse money won.~~

~~2. For a second offense within a 365 day period:~~

1 ~~a. A suspension or revocation of licensing privileges from fifteen (15) days to thirty (30)~~
2 ~~days. Section 9 of this administrative regulation shall apply to a person whose licensing~~
3 ~~privileges have been suspended or revoked;~~

4 ~~b. Payment of a fine of \$750 to \$1,500; and~~

5 ~~c. Forfeiture of purse money won.~~

6 ~~3. For a third offense within a 365-day period:~~

7 ~~a. A suspension or revocation of licensing privileges from thirty (30) days to sixty (60)~~
8 ~~days. Section 9 of this administrative regulation shall apply to a person whose licensing~~
9 ~~privileges have been suspended or revoked;~~

10 ~~b. Payment of a fine of \$1,500 to \$3,000; and~~

11 ~~c. Forfeiture of purse money won.~~

12 ~~(c) For violations where the concentrations of both of the two (2) permitted NSAIDs are~~
13 ~~below the primary threshold and both of the two (2) permitted NSAIDs are above the~~
14 ~~secondary threshold:~~

15 ~~1. For a first offense:~~

16 ~~a. A suspension or revocation of licensing privileges from zero to five (5) days. Section 9 of~~
17 ~~this administrative regulation shall apply to a person whose licensing privileges have been~~
18 ~~suspended or revoked; and~~

19 ~~b. Payment of a fine of \$250 to \$500.~~

20 ~~2. For a second offense within a 365-day period:~~

1 ~~a. A suspension or revocation of licensing privileges from five (5) days to ten (10) days.~~
2 ~~Section 9 of this administrative regulation shall apply to a person whose licensing privileges~~
3 ~~have been suspended or revoked; and~~

4 ~~b. Payment of a fine of \$500 to \$1,000.~~

5 ~~3. For a third offense within a 365-day period:~~

6 ~~a. A suspension or revocation of licensing privileges from ten (10) days to fifteen (15)~~
7 ~~days. Section 9 of this administrative regulation shall apply to a person whose licensing~~
8 ~~privileges have been suspended or revoked; and~~

9 ~~b. Payment of a fine of \$1,000 to \$2,500.~~

10 ~~(6) Class D drug.~~

11 ~~(a) The penalty for a violation involving a Class D drug shall be a written warning to the~~
12 ~~trainer and owner.~~

13 ~~(b) Multiple violations involving a Class D drug may result in the following penalties as~~
14 ~~deemed appropriate by the commission in keeping with the seriousness of the violation and the~~
15 ~~facts of the case:~~

16 ~~1. A suspension of licensing privileges from zero days to five (5) days; and~~

17 ~~2. Payment of a fine of not more than \$250.~~

18 ~~Section 6. Out of Competition Testing. The penalties established in 811 KAR 1:240,~~
19 ~~Section 8, shall apply to violations involving the prohibited substances and practices described~~
20 ~~in Section 2 of that administrative regulation.~~

1 ~~Section 7. TCO2 penalties. A person who violates or causes the violation of 811 KAR 1:090,~~
2 ~~Section 20(6), (7), or (8), shall be subject to the following penalties as deemed appropriate by~~
3 ~~the commission in keeping with the seriousness of the violation and the facts of the case:~~

4 ~~(1) For a first offense involving a positive pre-race test result, the licensee shall be issued a~~
5 ~~warning.~~

6 ~~(2) For a first offense involving a positive post-race test result:~~

7 ~~(a) A suspension or revocation of licensing privileges from zero days to ninety (90) days.~~

8 ~~Section 9 of this administrative regulation shall apply to any person whose licensing privileges~~
9 ~~have been suspended or revoked; and~~

10 ~~(b) Payment of a fine of \$1,000 to \$1,500.~~

11 ~~(3) For a second offense involving a positive pre-race or post-race test result:~~

12 ~~(a) A suspension or revocation of licensing privileges from three (3) months to six (6)~~
13 ~~months. Section 9 of this administrative regulation shall apply to any person whose licensing~~
14 ~~privileges have been suspended or revoked;~~

15 ~~(b) Payment of a fine of \$1,500 to \$3,000; and~~

16 ~~(c) Forfeiture of purse money won.~~

17 ~~(4) For a third offense involving a positive pre-race or post-race test result:~~

18 ~~(a) A suspension or revocation of licensing privileges from six (6) months to one (1) year.~~

19 ~~Section 9 of this administrative regulation shall apply to any person whose licensing privileges~~
20 ~~have been suspended or revoked;~~

21 ~~(b) Payment of a fine of \$3,000 to \$5,000; and~~

22 ~~(c) Forfeiture of purse money won.~~

~~(5) Subsequent offenses:~~

~~(a) A suspension or revocation of licensing privileges from one (1) year up to a lifetime license revocation; and~~

~~(b) Forfeiture of purse money won.~~

~~(6) Horse ineligible. A horse that registers a TCO2 level in violation of 811 KAR 1:090 shall be ineligible to race in Kentucky as follows:~~

~~(a) For a first offense, no period of ineligibility;~~

~~(b) For a second offense, the horse shall be ineligible from fifteen (15) days to sixty (60) days;~~

~~(c) For a third offense, the horse shall be ineligible from sixty (60) days to 180 days; and~~

~~(d) For a fourth offense, the horse shall be ineligible from 180 days to one (1) year.~~

~~(7) In any instance of a positive pre-race TCO2 test result, the horse shall be scratched.~~

~~Section 8. Shock Wave Machine and Blood Gas Machine Penalties. A person who violates or causes a violation of 811 KAR 1:090, Section 20(5), (9), or (10), regarding a shock wave machine or blood gas machine shall be subject to the following penalties as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case:~~

~~(1) For a first offense:~~

~~(a) A suspension or revocation of licensing privileges from thirty (30) days to ninety (90) days;~~

~~(b) Payment of a fine of \$1,000 to \$5,000; and~~

~~(c) Forfeiture of purse money won.~~

~~(2) For a second offense:~~

~~(a) A suspension or revocation of licensing privileges from ninety (90) days to 180 days;~~

~~(b) Payment of a fine of \$5,000 to \$10,000; and~~

~~(c) Forfeiture of purse money won.~~

~~(3) For a third offense:~~

~~(a) A suspension or revocation of licensing privileges from 180 days to one (1) year;~~

~~(b) Payment of a fine of \$10,000 to \$20,000; and~~

~~(c) Forfeiture of purse money won.]~~

Section 9. Persons with a Suspended or Revoked License. (1) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive person. The partners in a veterinary practice may provide services to horses if the inactive person does not receive a pecuniary benefit from those services.

(2) An associated person of an inactive person shall not:

(a) Assume the inactive person's responsibilities at a location under the jurisdiction of the commission;

(b) Complete an entry form for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked; or

(c) Pay or advance an entry fee for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked.

(3) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:

1 (a) Be paid a salary directly or indirectly by or on behalf of the inactive person;

2 (b) Receive a bonus or any other form of compensation in cash, property, or other
3 remuneration or consideration;

4 (c) Make a payment or give remuneration or other compensation or consideration to the
5 inactive person or associated person; or

6 (d) Train or perform veterinary work for the inactive person or an owner or customer of
7 the inactive person at a location under the jurisdiction of the commission.

8 (4) A person who is responsible for the care, training or veterinary services provided to a
9 horse formerly under the care, training or veterinary services of an inactive person shall:

10 (a) Bill customers directly on his or her bill form for any services rendered at or in
11 connection with any race meeting in Kentucky;

12 (b) Maintain a personal checking account totally separate from and independent of that of
13 the inactive person to be used to pay expenses of and deposit income from an owner or client
14 of the inactive person;

15 (c) Not use the services, directly or indirectly, of current employees of the inactive person;
16 and

17 (d) Pay bills related to the care, training and racing of the horse from a separate and
18 independent checking account. Copies of the invoices for the expenses shall be retained for not
19 less than six (6) months after the date of the reinstatement of the license of the inactive person
20 or the expiration of the suspension of the inactive person's license.

Section 10. Other Disciplinary Measures. (1) A person who violates 811 KAR 1:090, Section 6, regarding furosemide on race day shall be treated the same as a person who has committed a Class C drug violation.

(2) A person who violates 811 KAR 1:090, Section 8(6), for administering a non-steroidal anti-inflammatory drug other than phenylbutazone or flunixin shall be treated the same as a person who has committed a Class C drug violation.

(3) A person who violates 811 KAR 1:090, Section 20(2), shall be treated the same as a person who has committed a drug violation of the same class, as determined by the commission after consultation with the Equine Drug Research Council.

(4) A person who violates 811 KAR 1:090, Section 20(3), shall be treated the same as a person who has committed a Class A drug violation.

(5) An association in violation of Section 2(19), (20), (21), or (22) of this administrative regulation shall, together with its officers, be subject to a suspension or revocation of licensing privileges for up to thirty (30) days and payment of a fine up to \$5,000 in keeping with the seriousness of the violation and the facts of the case.

Section 11. Disciplinary Measures by Judges. Upon finding a violation or an attempted violation of 811 KAR Chapter 1 or KRS Chapter 230, if not otherwise provided for in this administrative regulation, the judges may impose one (1) or more of the following penalties:

(1) If the violation or attempted violation may affect the health or safety of a horse or race participant, or may affect the outcome of a race, declare a horse or a licensee ineligible to race or disqualify a horse or a licensee in a race;

1 (2) Suspend or revoke a person's licensing privileges for a period of time of not more than
2 five (5) years in proportion to the seriousness of the violation and the facts of the case;

3 (3) Cause a person, licensed or unlicensed, found to have interfered with, or contributed
4 toward the interference of the orderly conduct of a race or race meeting, or person whose
5 presence is found by the judges to be inconsistent with maintaining the honesty and integrity of
6 the sport of horse racing, to be excluded or ejected from association grounds or from a portion
7 of association grounds; and

8 (4) Payment of a fine in an amount not to exceed \$50,000 as deemed appropriate by the
9 commission in keeping with the seriousness of the violation and the facts of the case.

10 Section 12. Disciplinary Measures by the Commission. (1) Upon finding a violation or an
11 attempted violation of 811 KAR Chapter 1 or KRS Chapter 230, if not otherwise provided for in
12 this administrative regulation, the commission may impose one (1) or more of the following
13 penalties:

14 (a) If the violation or attempted violation may affect the health or safety of a horse or race
15 participant, or may affect the outcome of a race, declare a horse or a licensed person ineligible
16 to race or disqualify a horse or a licensed person in a race;

17 (b) Suspend or revoke a person's licensing privileges for a period of time of not more than
18 five (5) years in proportion to the seriousness of the violation;

19 (c) Cause a person found to have interfered with or contributed toward the interference
20 of the orderly conduct of a race or race meeting, or person whose presence is found by the
21 commission to be inconsistent with maintaining the honesty and integrity of horse racing, to be
22 excluded or ejected from association grounds or a portion of association grounds; and


1 (d) Payment of a fine of up to \$50,000 as deemed appropriate by the commission in
2 keeping with the seriousness of the violation and the facts of the case.

3 (2) Upon appeal of a matter determined by the judges the commission may:


4 (a) Order a hearing de novo of a matter determined by the judges; and

5 (b) Reverse or revise the judges' ruling in whole or in part, except as to findings of fact by
6 the judges' ruling regarding matters that occurred during or incident to the running of a race
7 and as to the extent of disqualification fixed by the judges for a foul in a race.

READ AND APPROVED:


Robert M. Beck, Jr., Chairman
Kentucky Horse Racing Commission

9-30-14
Date


Larry R. Bond, Acting Secretary
Public Protection Cabinet

10-1-14
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 24, 2014 at 10:00 AM, at the offices of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by November 17, 2014, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on December 1, 2014. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Susan B. Speckert
General Counsel
Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511
Phone: (859) 246-2040
Facsimile: (859) 246-2039

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Susan B. Speckert, General Counsel, Kentucky Horse Racing Commission
Phone (859) 246-2040

(I) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes penalties for violations of 811 KAR 1:090 and other regulations and statutes thereby giving licensees and other participants notice of consequences of violations.

(b) The necessity of this administrative regulation: This regulation is necessary to fulfill the statutory mandates found in KRS 230.215(2) and KRS 230.240(2).

KRS 230.215(2) states that,

[I]t is hereby declared the purpose and intent of this chapter in the interest of the public health, safety, and welfare, to vest in the racing commission forceful control of horse racing in the Commonwealth with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth...

KRS 230.240(2) states,

The racing commission shall promulgate administrative regulations for effectively preventing the use of improper devices, and restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race.

Without this administrative regulation, the commission would be unable to fulfill the statutory mandates set forth above.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) mandates that the commission establish the conditions under which thoroughbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky and

charges it to, “promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth.” KRS 230.240(2) further requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This regulation enables the commission to fulfill its statutory mandates by providing a means to enforce its rules and regulations.

Along with 811 KAR 1:090, this regulation allows the commission to “maintain horse racing at horse race meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled horse racing practices, and to regulate and maintain horse racing at race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of horse racing in the Commonwealth.” See KRS 230.215.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 230.215 articulates the commission’s statutory mandate to regulate horse racing in Kentucky “free of any corrupt, incompetent, dishonest, or unprincipled horse racing practices, and to regulate and maintain horse racing at race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of horse racing in the Commonwealth.” KRS 230.240 requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This regulation enables the

commission to fulfill its statutory mandates by providing a means to enforce its rules and regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

- The amendments make the penalty rule more consistent with the Model Rules issued by the Association of Racing Commissioners International, the umbrella organization for horse racing regulators in North America.
- To make the regulation clearer and more user-friendly, the penalties are presented in a chart.
- If a penalty for a medication violation requires a horse to be placed on the stewards' list, the stewards may waive this requirement if the ownership of the horse was legitimately transferred prior to the trainer's notification by the commission of the positive test result.
- The amendments create a new form and require claimants who choose to have a claimed horse tested to complete the form and include the form in the claim envelope. The form must be filled out completely and included in the claim envelope in order for the request to be valid.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to ensure that our penalties are appropriate and clear. The amendments help provide a fair and effective mechanism for enforcing KHRC rules and regulations.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) grants the commission the authority to regulate conditions under which thoroughbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky and charges it to, "promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth." KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This regulation enables the commission to fulfill its statutory mandates by providing a means to enforce its rules and regulations.

(d) How the amendment will assist in the effective administration of the statutes: This regulation enables the commission to fulfill its statutory mandates by providing a means to enforce its rules and regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all participants in horse racing in Kentucky, including owners, trainers, jockeys, and the commission.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendments to this

regulation will not require any particular action on the part of regulated entities. It provides notice to those entities of the potential penalties associated with a rule or regulation violation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are not costs associated with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments establish a fair penalty structure consistent with the Model Rules and presents the penalties in a clear and easy-to-understand format. This regulation provides notice to participants of the potential penalties associated with a rule or regulation violation

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no costs associated with implementing this administrative regulation.

(b) On a continuing basis: There are no costs associated with implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied. All aspects of this regulation will be applied equally to the affected parties.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 811 KAR 1:095

Contact Person: Susan B. Speckert, General Counsel, Kentucky Horse Racing Commission

Phone number: (859) 246-2040

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Kentucky Revised Statutes 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No estimated change in expenditures or revenues.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? There are no costs associated with this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with this administrative regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: